

107TH CONGRESS
2D SESSION

S. 1930

To promote the production of energy from wind.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2002

Mr. CONRAD introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To promote the production of energy from wind.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wind Energy Pro-
5 motion Act of 2002”.

6 **SEC. 2. 5-YEAR EXTENSION OF CREDIT FOR PRODUCING**
7 **ELECTRICITY FROM WIND.**

8 (a) IN GENERAL.—Section 45(c)(3)(A) of the Inter-
9 nal Revenue Code of 1986 (relating to wind facility) is
10 amended by striking “January 1, 2002” and inserting
11 “January 1, 2007”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to property placed in service after
 3 December 31, 2001.

4 **SEC. 3. WIND ENERGY DEVELOPMENT ASSISTANCE PRO-**
 5 **GRAM.**

6 (a) IN GENERAL.—The Secretary of Agriculture, act-
 7 ing through the Rural Business Cooperative Service (re-
 8 ferred to in this section as the “Secretary”), in addition
 9 to exercising authority to make loans and loan guarantees
 10 under other law, shall establish a program under which
 11 the Secretary shall competitively make grants and low-in-
 12 terest loans to assist farmers and ranchers in projects in
 13 establishing new farmer or rancher cooperatives or other
 14 rural business ventures to construct wind energy facilities.

15 (b) OWNERSHIP REQUIREMENT.—At least 50 percent
 16 of the interest in a rural business venture assisted with
 17 a grant or loan under subsection (a) shall be owned by
 18 farmers or ranchers.

19 (c) USE OF ASSISTANCE.—

20 (1) PERMITTED USES.—Under subsection (a)—

21 (A) a recipient of a grant may use the
 22 grant funds to develop a business plan or per-
 23 form a feasibility study to establish a viable
 24 marketing opportunity for wind energy genera-
 25 tion and sale; and

1 (B) a recipient of a loan may use the loan
 2 funds to carry out a project described in sub-
 3 section (a).

4 (2) PROHIBITED USES.—A recipient of a grant
 5 or loan under subsection (a) shall not use the grant
 6 or loan funds for planning, repair, rehabilitation, ac-
 7 quisition, or construction of a building or other facil-
 8 ity.

9 (d) MAXIMUM AMOUNT OF GRANTS AND LOANS.—

10 (1) GRANTS.—The amount of a grant made to
 11 a recipient under subsection (a) shall not exceed
 12 \$200,000 for a fiscal year.

13 (2) LOANS.—

14 (A) PRINCIPAL.—The amount of a loan
 15 made to a recipient under subsection (a) shall
 16 not exceed \$10,000,000 for a fiscal year.

17 (B) INTEREST.—The amount of interest
 18 payable on a loan made under subsection (a)
 19 shall not exceed 4 percent.

20 (e) COST SHARING.—The Federal share of the cost
 21 of a project assisted with a grant or loan under subsection
 22 (a) shall not exceed 50 percent of the cost of the project.

23 (f) FUNDING.—

24 (1) IN GENERAL.—On October 1, 2002, and
 25 each October 1 thereafter through October 1, 2006,

1 out of any funds in the Treasury not otherwise ap-
 2 propriated, the Secretary of the Treasury shall
 3 transfer to the Secretary to carry out this section
 4 \$20,000,000, to remain available until expended.

5 (2) RECEIPT AND ACCEPTANCE.—The Sec-
 6 retary shall be entitled to receive the funds and shall
 7 accept the funds transferred under paragraph (1),
 8 without further appropriation.

9 **SEC. 4. INSTALLATION OF WIND TURBINES ON CONSERVA-**
 10 **TION RESERVE PROGRAM LAND.**

11 Section 1232 of the Food Security Act of 1985 (16
 12 U.S.C. 3832) is amended—

13 (1) in subsection (a)(7)—

14 (A) by striking “that the Secretary” and
 15 inserting “that”; and

16 (B) in subparagraph (A)—

17 (i) by striking “may permit” and in-
 18 serting “the Secretary”;

19 (ii) in clause (i)—

20 (I) by inserting “may permit”
 21 after “(i)”; and

22 (II) by striking “and” at the end;

23 (iii) in clause (ii), by inserting “may
 24 permit” after “(ii)”; and

1 (iv) by adding at the end the fol-
 2 lowing:

3 “(iii) notwithstanding the amount of a
 4 base payment limited by section 1234(c)(2)
 5 and specified in a contract entered into
 6 under this chapter, shall reduce the
 7 amount of the base payment paid to an
 8 owner or operator of land on which 1 or
 9 more wind turbines are installed under
 10 subsection (f) by an amount determined by
 11 the Secretary to be commensurate with the
 12 value of the reduction of benefit gained by
 13 enrollment of the land in the conservation
 14 reserve program; and”;

15 (2) by adding at the end the following:

16 “(f) WIND TURBINES.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
 18 the Secretary may permit an owner or operator of
 19 land that is enrolled in the conservation reserve pro-
 20 gram, but that is not enrolled under continuous
 21 signup under section 1234(c)(2)(B), to install wind
 22 turbines on the land.

23 “(2) NUMBER; LOCATION.—The Secretary shall
 24 determine the number and location of wind turbines

1 that may be installed on a tract of land under para-
 2 graph (1), taking into account—

3 “(A) the location, size, and other physical
 4 characteristics of the land;

5 “(B) the extent to which the land contains
 6 wildlife and wildlife habitat; and

7 “(C) the purposes of the conservation re-
 8 serve program.”.

9 **SEC. 5. ENHANCED WIND ENERGY RESEARCH AND DEVEL-**
 10 **OPMENT.**

11 (a) PROGRAM DIRECTION.—The Secretary of Energy
 12 shall conduct a research, development, demonstration, and
 13 technology deployment program to enhance the use of
 14 wind energy.

15 (b) PROGRAM GOALS.—The goals of the wind energy
 16 program shall be to develop, in partnership with industry,
 17 a variety of advanced wind turbine designs and manufac-
 18 turing technologies that are cost-competitive with fossil-
 19 fuel generated electricity, with a focus on developing ad-
 20 vanced low wind speed technologies that, by 2007, will en-
 21 able the expanded use of widespread class 3 and 4 winds.

22 (c) RURAL AND REMOTE LOCATIONS.—

23 (1) IN GENERAL.—In carrying out this section,
 24 the Secretary of Energy shall demonstrate the use of

1 advanced wind power technology to assist in deliv-
 2 ering electricity to rural and remote locations.

3 (2) FINANCIAL ASSISTANCE.—In carrying out
 4 paragraph (1), the Secretary of Energy may provide
 5 financial assistance to rural electric cooperatives and
 6 other rural entities.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 8 are authorized to be appropriated to the Secretary of En-
 9 ergy for carrying out research, development, demonstra-
 10 tion, and technology deployment activities under this
 11 subtitle—

12 (1) \$100,000,000 for fiscal year 2003;

13 (2) \$125,000,000 for fiscal year 2004;

14 (3) \$135,000,000 for fiscal year 2005; and

15 (4) \$150,000,000 for fiscal year 2006.

16 **SEC. 6. REGULATORY REVIEWS.**

17 (a) REGULATORY REVIEWS.—Not later than 1 year
 18 after the date of enactment of this Act and every 5 years
 19 thereafter, each Federal agency shall review regulations
 20 and standards promulgated by the agency to identify—

21 (1) regulations and standards that act as bar-
 22 riers to—

23 (A) market entry for emerging wind energy
 24 technologies; and

1 (B) market development and expansion for
2 wind energy technologies (including combined
3 heat and power, small-scale renewable energy,
4 and energy recovery in industrial processes);
5 and

6 (2) actions that the agency is taking or could
7 take to remove those barriers.

8 (b) REPORTS.—

9 (1) IN GENERAL.—Not later than 18 months
10 after the date of enactment of this Act, and every
11 5 years thereafter, the Director of the Office of
12 Science and Technology Policy shall submit to Con-
13 gress a report on the results of the agency reviews
14 conducted under subsection (a).

15 (2) CONTENTS.—A report under paragraph (1)
16 shall—

17 (A) identify all regulatory barriers to—

18 (i) the development and commer-
19 cialization of emerging wind energy tech-
20 nologies; and

21 (ii) the further development and ex-
22 pansion of wind energy conservation tech-
23 nologies;

24 (B) actions taken, or proposed to be taken,
25 to remove those barriers; and

1 (C) recommendations for changes in laws
 2 (including regulations) needed to expedite the
 3 siting and development of wind energy produc-
 4 tion and distribution facilities.

5 **SEC. 7. FEASIBILITY STUDY OF COMBINED WIND AND HY-**
 6 **DROPOWER DEMONSTRATION PROJECT.**

7 (a) STUDY.—The Secretary of Energy, in coordina-
 8 tion with the Secretary of the Army and the Secretary of
 9 the Interior, shall conduct a study of the cost and feasi-
 10 bility of developing a demonstration project that would use
 11 wind energy generated by Indian tribes and hydropower
 12 generated by the Army Corps of Engineers at the Garrison
 13 Dam on the Missouri River to supply firming power to
 14 the Western Area Power Administration.

15 (b) PARTICIPATION BY TRIBAL ENGINEER.—The
 16 Secretary of Energy shall include among the persons that
 17 conduct the study an independent tribal engineer.

18 (c) SCOPE OF STUDY.—The study shall—

19 (1) determine the feasibility of the blending of
 20 wind energy and hydropower generated from the
 21 Garrison Dam;

22 (2) review historical purchase requirements and
 23 projected purchase requirements for firming and the
 24 patterns of availability and use of firming energy;

1 (3) assess the wind energy resource potential on
2 tribal land and projected cost savings through a
3 blend of wind and hydropower over a 30-year period;

4 (4) include a preliminary interconnection study
5 and a determination of resource adequacy of the
6 Upper Great Plains Region of the Western Area
7 Power Administration; and

8 (5) determine seasonal capacity needs and asso-
9 ciated transmission upgrades for integration of tribal
10 wind generation.

11 (d) REPORT.—Not later than 1 year after the date
12 of enactment of this Act, the Secretary of Energy and Sec-
13 retary of the Army shall submit to Congress a report that
14 includes—

15 (1) an analysis of the potential energy cost sav-
16 ings to the customers of the Western Area Power
17 Administration through the blend of wind and hy-
18 dropower;

19 (2) an evaluation of whether a combined wind
20 and hydropower system can reduce reservoir fluctua-
21 tion, enhance efficient and reliable energy production
22 and provide Missouri River management flexibility;

23 (3) recommendations for a demonstration
24 project that the Western Area Power Administration
25 could carry out in partnership with an Indian tribal

1 government or tribal government energy consortium
2 to demonstrate the feasibility and potential of using
3 wind energy produced on Indian land to supply firm-
4 ing energy to the Western Area Power Administra-
5 tion or other Federal power marketing agency; and

6 (4)(A) an identification of the economic and en-
7 vironmental benefits to be realized through such a
8 partnership; and

9 (B) a description of how such a partnership
10 could contribute to the energy security of the United
11 States.

12 (e) CONSULTATION.—The Secretary shall consult
13 with Indian tribes in developing the report and rec-
14 ommendations under this section.

15 (f) COSTS INCURRED BY WAPA.—Any costs incurred
16 by the Western Area Power Administration in connection
17 with the implementation of this section shall be non-
18 reimbursable.

19 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$500,000, to remain available until expended.

22 **SEC. 8. WIND ENERGY ON FEDERAL LAND.**

23 (a) DEFINITION OF FEDERAL LAND.—In this sec-
24 tion, the term “Federal land” means land owned by the
25 United States that

1 (1) is subject to the mineral leasing laws; and

2 (2) is—

3 (A) public land (as defined in section 103
4 of the Federal Land Policy and Management
5 Act of 1976 (42 U.S.C. 1702)); or

6 (B) a unit of the National Forest System
7 (as defined in section 11 of the Forest and
8 Rangeland Renewable Resources Planning Act
9 of 1974 (16 U.S.C. 1609)).

10 (b) PILOT PROGRAM.—Not later than 1 year after
11 the date of enactment of this Act, the Secretary of the
12 Interior, in consultation with the Secretary of Agriculture
13 and the Secretary of Energy, shall develop guidelines for
14 a pilot program for the development of wind energy on
15 Federal land.

16 (c) RIGHTS-OF-WAY.—

17 (1) IN GENERAL.—The pilot program shall pro-
18 vide for the issuance of rights-of-way under title V
19 of the Federal Land Policy and Management Act of
20 1976 (43 U.S.C. 1761 et seq.)—

21 (A) by the Secretary of the Interior with
22 respect to Federal land under the jurisdiction of
23 the Department of the Interior; and

1 (B) by the Secretary of Agriculture with
2 respect to Federal land under the jurisdiction of
3 the Department of Agriculture.

4 (2) ELIGIBLE AREAS.—Rights-of-way shall be
5 limited to areas—

6 (A) that have high potential for wind en-
7 ergy development;

8 (B) that are identified by the wind energy
9 industry, through a process of nominations or
10 otherwise, as being of particular interest to the
11 industry;

12 (C) that are not located in a roadless area;

13 (D) in which construction and operation of
14 a wind energy facility would be compatible with
15 the scenic, recreational, environmental, cultural,
16 or historic values of the Federal land and would
17 not require the construction of new roads for
18 the siting of lines or other transmission facili-
19 ties; and

20 (E) in which issuance of a right-of-way is
21 consistent with the land and resource manage-
22 ment plans of the Federal agency that manages
23 the land.

24 (d) FINANCIAL ASSISTANCE.—The Secretary of En-
25 ergy may provide financial assistance for a wind energy

1 project in an amount that does not exceed 15 percent of
 2 the cost of the project.

3 (e) REVISION OF PLANS GOVERNING MANAGEMENT
 4 OF FEDERAL LAND.—

5 (1) SECRETARY OF THE INTERIOR.—The Sec-
 6 retary of the Interior shall consider development of
 7 wind energy in revisions of land use plans under sec-
 8 tion 202 of the Federal Land Policy and Manage-
 9 ment Act of 1976 (42 U.S.C. 1712).

10 (2) SECRETARY OF AGRICULTURE.—The Sec-
 11 retary of Agriculture shall consider development of
 12 wind energy in revisions of land and resource man-
 13 agement plans under section 5 of the Forest and
 14 Rangeland Renewable Resources Planning Act of
 15 1974 (16 U.S.C. 1604).

16 (f) REPORT.—

17 (1) IN GENERAL.—Not later than 2 years after
 18 the date of enactment of this Act, the Secretary of
 19 the Interior shall submit to Congress a report on de-
 20 velopment of wind energy on Federal land.

21 (2) CONTENTS.—The report under paragraph
 22 (1) shall include—

23 (A) a 5-year plan developed by the Sec-
 24 retary of the Interior, in cooperation with the
 25 Secretary of Agriculture, for encouraging the

1 development of wind energy on Federal land in
2 an environmentally sound manner;

3 (B) analyses of—

4 (i) whether the use of rights-of-way is
5 the best means of authorizing use of Fed-
6 eral land for the development of wind en-
7 ergy, or whether such resources could be
8 better developed through a leasing system
9 or any other means;

10 (ii) the desirability of grants, loans,
11 tax credits, or other provisions to promote
12 the development of wind energy on Federal
13 land; and

14 (iii) any problems, including environ-
15 mental concerns, that the Secretary of the
16 Interior or the Secretary of Agriculture
17 has encountered in managing wind energy
18 projects on Federal land or believes is like-
19 ly to arise in relation to the development of
20 wind energy on Federal land;

21 (C) a list, developed in consultation with
22 the Secretary of Energy and the Secretary of
23 Defense, of land under the jurisdiction of the
24 Department of Energy or Department of De-
25 fense that would be suitable for development for

1 wind energy, and recommended statutory and
 2 regulatory mechanisms for development of wind
 3 energy;

4 (D) an analysis, developed in consultation
 5 with the Secretary of Energy and the Secretary
 6 of Commerce, of the potential for development
 7 of wind energy on the outer continental shelf;
 8 and

9 (E) recommendations for any statutory or
 10 regulatory changes that the Secretary of the In-
 11 terior believes would assist in the development
 12 of wind energy on Federal land or on the outer
 13 continental shelf.

14 **SEC. 9. ASSESSMENT OF WIND ENERGY RESOURCES AND**
 15 **TRANSMISSION CAPACITY.**

16 (a) IN GENERAL.—The Secretary shall conduct an
 17 assessment of—

18 (1) wind energy resources; and

19 (2) transmission capacity for wind energy.

20 (b) REQUIREMENTS.—In carrying out subsection (a),
 21 the Secretary of Energy shall—

22 (1)(A) review wind energy potential throughout
 23 the United States; and

24 (B) prepare an inventory of the available
 25 amount and characteristics of that potential; and

1 (2) identify the barriers to providing adequate
2 transmission of energy produced from wind and
3 other remote sources to current and emerging mar-
4 kets.

5 (c) REPORT.—After completing the assessment under
6 subsection (a), the Secretary of Energy shall submit to
7 Congress a report that—

8 (1) describes the results of the assessment;

9 (2) makes recommendations for removing the
10 barriers identified under subsection (b)(2); and

11 (3) describes means of providing access to the
12 transmission grid for wind energy in a way that does
13 not unfairly disadvantage wind energy producers or
14 other energy producers.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated to carry out this section
17 \$1,000,000.

